

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

- - - - - x
:
UNITED STATES OF AMERICA, :
:
v. : Criminal No. 17-00472-PX
:
DAWN J. BENNETT, :
:
Defendant. : September 21, 2017
:
- - - - - x Greenbelt, Maryland

BAIL REVIEW HEARING

BEFORE: THE MAGISTRATE JUDGE TIMOTHY J. SULLIVAN

APPEARANCES: ERIN B. PULICE, Esq.
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Audio Operator: Brandon Mottley

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Keynote: "---" indicates inaudible in the transcript.
"*" indicates phonetically spelled in the transcript.

P R O C E E D I N G S

2 (Whereupon, at 2:06 p.m., the proceeding began.)

3 THE CLERK: Government, call the case, please. Have
4 a seat.

5 MR. WINDOM: Good afternoon, Your Honor. We are
6 here on United States versus Dawn Bennett, PX-17-472 for
7 purposes of bail review hearing.

8 Thomas Windom and Erin Pulice for the United States.
9 With us at counsel table is Special Agent Keith Custer*.

10 MS. PULICE: Good afternoon, Your Honor.

11 THE COURT: All right. Good afternoon to both of
12 you.

13 MR. GREMMINGER: Your Honor, my name is Steve
14 Gremminger. This is Dawn Bennett. I have with me today
15 Mr. Schamel who has requested leave of court to enter a
16 special appearance and to appear on behalf of the Defendant
17 along with me.

18 THE COURT: Sure.

19 MR. GREMMINGER: And we request leave that he be
20 permitted to do so.

21 THE COURT: Sure. So let's talk about that first.
22 And as the parties know Judge Xinis sent me an attorney
23 inquiry referral today.

24 Counsel, you can come up.

25 MR. SCHAMEL: Thank you, Your Honor.

1 MR. GREMMINGER: Thank you.

2 THE COURT: This is a real mess. And, you know,
3 Ms. Bennett, you will find very quickly that I am not
4 Judge DiGirolamo. And I am really unhappy. And if I am
5 unhappy, you can assume that the district judge is unhappy.

6 We don't have like limited special super-duper
7 temporary maybe just -- maybe for a one minute hearing
8 attorney representations. And we don't even have local
9 counsel in criminal cases. Any attorney in the country can
10 come and represent a criminal defendant in this court.

11 So there is no such thing, Counsel -- you can have
12 seat. There is no such thing as local counsel in a criminal
13 case. And you can't hide behind the fact that you are local
14 counsel because once you are in, you are in.

15 We have one exception in this court, and it has been
16 the practice -- I was a criminal defense attorney for 26 years
17 in this building and in Baltimore before I became a magistrate
18 judge. We dealt with the rule one, which we all know what
19 that is, if you show up at an initial appearance for a
20 criminal defendant, the court will give you the limited
21 ability to enter your appearance for that proceeding.

22 And then if you enter, then you are in. And that
23 would allow the parties, the defendant, and the attorney to
24 figure out if they can resolve rule one, which we all know is
25 the ability to pay. And the court is very flexible at that

1 point about either having another attorney inquiry hearing if
2 the defendant can't pay and may qualify for court appointed
3 counsel, or whether the defendant is going to shop around and
4 try to get retained counsel, counsel of choice, at that point.

5 But by my count -- by my count, there have been at
6 least four lawyers who have had some kind of -- there is a guy
7 in New Mexico, the guy in New York City, Mr. Morvillo* --
8 whatever his name is, you, and you. So this case is like
9 brand spanking new and we are having trouble with
10 Ms. Bennett's attorneys and it is going to stop right now.

11 So I will let you participate today under this novel
12 downtown lawyer thing called -- whatever it is called. I
13 never even heard of it before and I will probably spend a lot
14 of time trying to figure out exactly what to call it -- the
15 conditional limited appearance. I am not even sure what that
16 means, but I have no intention of jamming up any lawyer. And
17 I know the pain of getting in a case when the client can't pay
18 or won't pay. And we are not going to -- I am never going to
19 force a defense attorney to stay in a case because it creates
20 all kinds of problems.

21 But the other side is I am never, ever, ever going
22 to allow a criminal defendant to manipulate, to use her
23 counsel of choice ability under the Sixth Amendment like a
24 carrousel to keep this case from moving forward.

25 So if I have to have attorney inquiry hearings every

1 other day, we are -- somebody is going to enter a full
2 appearance in this case to represent Ms. Bennett. And we may
3 not have to -- we are going to get to it at some point today.
4 But for the purposes of where we are and what we are here
5 today for, which is a bail review hearing, I will let both of
6 counsel participate and protect the interests of Ms. Bennett.

7 But, Ms. Bennett, if you haven't figured this out
8 already, you got to hire a lawyer and that lawyer is going to
9 enter his or her appearance and that is it. We are not going
10 to have this carrousel of four -- I mean, as -- the only thing
11 I agreed with your motion was that the -- you know, we have
12 had so many procedural irregularities in this case already and
13 it is brand new.

14 And that, I guess, is bad news that you guys got me.
15 But that is going to stop. It is going to stop.

16 Ms. Bennett, you have got to lawyer-up one way or
17 the other. You either hire a lawyer or you ask the Court to
18 consider appointment of counsel for you because you can't
19 afford counsel, or you represent yourself. Those are the
20 three -- any criminal defendant has those three rights.

21 And we will talk more about a time table for you to
22 either, retain counsel and have that counsel enter his or her
23 appearance. I don't want you without counsel. That is why I
24 am keeping your lawyers in now; one who is already in who is
25 like shaking his head saying, "I don't know why I ever

1 answered that phone call." And the other one who is trying to
2 -- I think based on the representations, trying to figure out
3 if a representation agreement can be reached with you. And I
4 understand that takes time too, especially in cases like this.

5 But for the purposes of today, and today only, I
6 will allow both lawyers to participate in this hearing. So
7 that is where we are for the attorney inquiry.

8 So let me run back some landscape on what I have
9 been able to catch up with.

10 MR. SCHAMEL: Your Honor?

11 THE COURT: I have listened to all the hearings in
12 front of Judge DiGirolamo and to my understanding, unless I am
13 missing something -- my understanding is we are here today for
14 a bail review hearing based on the August 29th, 2017
15 memorandum that Judge DiGirolamo -- from James Ridgeway, the
16 location monitoring specialist, in which Judge DiGirolamo was
17 notified of an apparent violation by Ms. Bennett for basically
18 -- like within hours of a hearing and without -- within hours
19 of trying to get installed on electronic monitoring based on
20 Judge DiGirolamo's conditions of release.

21 And in that memo he viewed the Defendant's non-
22 compliance as serious and respectfully recommended a prompt
23 bail review hearing.

24 In the interim, I am familiar with the fact that
25 Judge DiGirolamo modified a component of the release

1 conditions and had a hearing on September 14th about that
2 where counsel -- defense counsel participated by phone and
3 where the Government, I think, moved for detention at that
4 point and Judge DiGirolamo left the conditions of release as
5 he had imposed them and modified them. And in a very
6 collegial-like way said, you know, Judge Sullivan can deal
7 with this.

8 So that is my understanding of why we are here.

9 Government, do you agree with that, not agree with
10 it? Is there more nuance than that? What is the --

11 MR. WINDOM: That is why we are here. The
12 Government investigated further after receiving the violation
13 notice from Pretrial. We have additional evidence to present
14 to the Court involving Ms. Bennett's rampant, brazen
15 violations of the release order in this case.

16 So the Government would like to begin by asking
17 Pretrial if there is anything further to add to its report.

18 THE COURT: Let me -- before we get down that road,
19 do you want to tell me that you are not prepared, that you
20 need time to prepare, that you are totally surprised by this,
21 that your client is prejudiced by this?

22 But I will then say to you, well, the gentleman on
23 the other side has been in this case, so you should be ready
24 to go today.

25 MR. SCHAMEL: No, that is not what I was going to

1 say, Your Honor.

2 THE COURT: Okay.

3 MR. SCHAMEL: Good morning, Your Honor. Mark
4 Schamel.

5 THE COURT: All right. Good afternoon. Hi.

6 MR. SCHAMEL: I am here for Ms. Bennett and I
7 appreciate your -- first let me say, Your Honor, you are
8 right. The reason Your Honor doesn't know what that motion is
9 is that is the, sort of, the machinations of my mind to try to
10 find a way to convey to the Court exactly what the Court took
11 from it.

12 I would be happy to go into more detail if Your
13 Honor would like at the bench. Not *ex parte*, of course, with
14 the Government, if you want to know a little bit more about
15 it.

16 But I would like to, before we begin, Your Honor,
17 just -- I want Your Honor to be in the right frame of mind
18 before we start into the actual hearing because this is not
19 Ms. Bennett's doing. The fact that Ms. Bennett is sitting
20 next to Mr. Gremminger and myself is not by her choice,
21 frankly. She had lawyers. She had lawyers for a significant
22 period of time. This is a case that originated with an SEC
23 referral from Philadelphia that has been going on for well
24 over a year.

25 My understanding of what she has paid those two

1 individuals from New York to represent her is pretty
2 significant and what I would expect for a month's long trial
3 here in this district. So the fact that she doesn't have
4 those lawyers at the last minute is not a gamesmanship by her
5 and I want Your Honor to know that.

6 THE COURT: Okay. That is fine. I accept that.
7 Okay.

8 MR. SCHAMEL: And as far as Mr. Gremminger, he --
9 with all due respect to Mr. Gremminger -- I have known him for
10 a number of years -- is a tax lawyer. He is a former DOJ tax
11 lawyer. He is not a criminal defense lawyer.

12 Apparently neither he nor the other gentlemen from
13 New York were aware of the issue on local counsel and had that
14 hearing. So Mr. Gremminger -- when I talked to Mr. Gremminger
15 about this case -- when I saw his name and I talked to
16 Ms. Bennett about this case, I wanted to help.

17 So I just -- I want Your Honor to know this is not
18 gamesmanship. It is exactly as you see from my
19 representations, --

20 THE COURT: Yes.

21 MR. SCHAMEL: -- is that I am trying to figure out
22 if I can get in. The fact that all of the other lawyers in
23 this case have been subpoenaed for their billing records and
24 their engagement agreements has -- obviously, I have, you
25 know, traps that have to run at my firm about whether or not

1 that is something we are going to undertake. So I was
2 comfortable having her here today and not letting
3 Mr. Gremminger be on his own for his first bail hearing.

4 THE COURT: Right. Look, I -- you know, I have no
5 information that Ms. Bennett is trying to game anything. I am
6 just, you know, telling you and Ms. Bennett, given my
7 experiences, that we are not going to have a lot of back and
8 forth about attorneys. And that this is the same for
9 Ms. Bennett, for any other criminal defendant. You hire a
10 lawyer and let's get moving down the road. It is that simple.

11 And, you know, nobody -- you know, look the Supreme
12 Court has made it known over, and over, and over, and over,
13 and over that the Sixth Amendment means something, and that a
14 person has the right to their counsel of choice. And it is
15 not for me or the Government to interfere with that.

16 But when that pursuit of counsel of choice becomes
17 detrimental to the speedy resolution of a case and interferes
18 with the court's dockets, then it becomes a problem. So that
19 was just the shot that I was shooting out. I have no feelings
20 one way or another about what Ms. Bennett is doing or not
21 doing. It is up to her.

22 MR. SCHAMEL: And I didn't --

23 THE COURT: Right.

24 MR. SCHAMEL: -- wasn't inferring that Your Honor
25 did.

1 THE COURT: Right. Okay.

2 MR. SCHAMEL: I just wanted to make sure that we
3 were clear that she has been dealing with me in good faith.
4 And frankly, thought -- I am her second choice. She had
5 lawyers. She thought those were going to be her lawyers.

6 THE COURT: Right.

7 MR. SCHAMEL: And they decided they wouldn't be.

8 THE COURT: Right. I understand.

9 MR. SCHAMEL: So I am -- you know, I have known her
10 for 48 hours and --

11 THE COURT: Right.

12 MR. SCHAMEL: -- I am doing the best I can to --

13 THE COURT: Okay. All right.

14 MR. SCHAMEL: -- sort of come up to speed.

15 THE COURT: So we are --

16 MR. SCHAMEL: On the issue of the hearing -- and I
17 know where Your Honor is going and I am not disagreeing that
18 this has been out there since the 29th of August.
19 Mr. Gremminger has never handled a criminal case. That is not
20 the reason that he is not ready and I am not ready today.

21 The reason we are not ready, Your Honor, is we were
22 just -- and again, I haven't ever had a conversation with
23 either of these Government prosecutors until this morning when
24 they walked in. And they have been very cordial and they were
25 very lovely, and they handed me a couple of spreadsheets right

1 after they served my client. And Your Honor has them in front
2 of you as Government exhibits.

3 Right after the two FBI agents served my client with
4 a warrant in the back room to search her purse and take her
5 phone. So they served the warrant on her, gave me the
6 spreadsheets and said there's 130, give or take, violations --
7 technical violations. Here they are. Alleged that she has
8 made phone calls from a number of phones that -- all news to
9 me, news to Mr. Gremminger. Would not provide that to prior
10 counsel at any time for it.

11 If Your Honor looks at the multi-colored document
12 that is in front of you -- the multiple-page document that
13 lists those blue, red, yellow -- one of the phone calls there,
14 the yellow one, is actually Mr. Gremminger's phone. This
15 gentleman right here. This lawyer. They are alleging that
16 Ms. Bennett made a call from Mr. Gremminger's phone to one of
17 the witnesses on the list.

18 They handed us that just now. And in the five to
19 seven minutes before Your Honor took the bench, I had an
20 opportunity to call some numbers on there and actually talked
21 to one of people who is listed on that, and I would be happy
22 *ex parte* if Your Honor wants to know which person that was.
23 And that person told me that they did in fact talk to
24 Ms. Bennett. I won't deny that that is what they said, but
25 that they have never, ever been asked and never been -- and

1 allow to register the fact that they want to continue talking
2 to her. They are not -- that person is not a victim, was
3 never defrauded from anything, has ongoing business concerns
4 with Ms. Bennett, should not be on a list of not being able to
5 talk to her.

6 And contrary to what the Government Counsel, I
7 think, is going to argue, was not -- it was not an intent to
8 influence this person, there no intent to obstruct or tell
9 this person not to testify truthfully or to falsify things.
10 Nothing on tort. One person, one call, five minutes that I
11 have had this document.

12 So the Government is going to get up here and they
13 are going to -- and I read the report from August 29th, which
14 is the same report that His Honor -- Judge DiGirolamo had in
15 front of him when this was punted. The Government is going to
16 get up here -- I talked -- I had a chance to talk to
17 Mr. Ridgeway too who thinks that she needs to be held -- and
18 they are going to ask that this woman with no criminal record
19 be held because she has been allegedly making these phone
20 calls they wouldn't disclose to use, the last phone call being
21 the 3rd of September; okay? So three weeks ago.

22 Reasons we are are playing, you know, this sort of
23 got you game where we are coming into the courtroom and we are
24 doing trial by ambush, I don't know. Maybe it is because when
25 I start calling these people they are going to disagree with

1 what the Government's representations are, I don't know.

2 But I know that we -- Mr. Gremminger and I -- just
3 received this before you walked into the courtroom. And I
4 make one call, talked to one witness, and it directly
5 contradicts what the Government said that the proffer would
6 be.

7 Secondly, Your Honor, the Government previously
8 asked for a continuous on this. They asked for a continuous
9 on the 14th of September. I am not sure -- and I get we have
10 got to have the hearing, and I get she has got to have a
11 lawyer, and it has to be done -- I am not sure what has
12 changed from the 14th of September until the 21st of September
13 when the last phone call or allegation here is on the 3rd of
14 September, and the Pretrial allegation is the end of August.

15 So I am not really sure what the rush is on it. And
16 if there is a rush -- right? If there is a rush and these are
17 technical violations, to have her held when I was just
18 informed by Government Counsel that they both have trials
19 every single month from now until the beginning of next summer
20 and that the judge who is assigned to this case is setting
21 trial dates in July -- this is a bank fraud/wire fraud case.

22 We know that they have got an ongoing grand jury.
23 They have confirmed for us that they intend to supersede
24 before the end of the year. So we will have a superseding
25 indictment before the end of the year. Maybe it looks more

1 like the complaint that they filed before they filed the
2 indictment. I don't know because I just don't know the case
3 well enough. Maybe that is what it looks like and maybe we
4 are not looking at a single count of bank fraud for a \$750,000
5 loan that has been repaid. Maybe that there is actually
6 something there, there.

7 But at his junction, I am just not quite sure what
8 the all fire hurry is to put this woman in a cage until next
9 summer so that they can supersede, other than they want to
10 punish her for these alleged violations.

11 What I would like to do, if given by druthers, is
12 have an opportunity to actually run some of this down, talk to
13 some of these people, and see what is there, number one. Find
14 out, if in fact, they can prove -- and I am sure they can with
15 just the testimony of Agent Custer by probable cause -- that
16 there were technical violations of the stay-away -- or the no-
17 contact -- the no-fly list, sort to speak.

18 My question is -- and again, I was not involved in
19 this case in New Mexico. There was some other lawyer Your
20 Honor referenced that stood in as local counsel because she
21 now lives at a ranch in New Mexico -- I don't know what the
22 showing was. What showing was made in New Mexico that these
23 35 plus individuals should be on a no-contact list?

24 If Your Honor looks at the actual order, she is
25 allowed to keep working. She has an ongoing concern in which

1 she has invested millions of her own dollars into. There are
2 a number of investors who have been in contact with lawyers --
3 which is actually how I got contacted on this case -- to
4 believe that what she is doing is legitimate, that there was
5 no fraud here, they are being misrepresented, they don't want
6 to have a no-contact with her.

7 So I understand that the Government can get up and
8 they can say -- and let's just assume for the sake of today's
9 discussion that they can easily prove these technical
10 violations that she made phone calls to individuals that were
11 listed on that list. I think we have an obligation -- and I
12 am not casting these versions on the lawyers before, the
13 judges before, or the Government in New Mexico, but we have an
14 obligation because it is here in front of us today to actually
15 look at it and decide do these people belong on a no-contact
16 list? Right? Do these people belong on a no-contact list?

17 THE COURT: So why is that my -- why is that my job?
18 Why isn't it -- if I accept the Government's proffer that
19 Ms. Bennett may be engaging in obstruction of justice by
20 talking to people who are investors or whoever, and I tell
21 her, look, one of the conditions of release is you can't have
22 contact with all of these people, why is it that is solely my
23 call as the magistrate judge setting conditions of release?
24 And why do you want to have -- and why would I ever let you
25 have a mini hearing where we sit here for hours and hours and

1 talk about why Tim Sullivan wants to talk to Dawn Bennett and,
2 you know, why -- and so I think you are putting it backwards.
3 It is really not whether somebody on the no-contact list wants
4 to talk to Ms. Bennett, it is Ms. Bennett's restriction on
5 talking to them, isn't it? Isn't that the more appropriate --

6 MR. SCHAMEL: You are right, Your Honor. That is
7 the appropriate analysis. The question here though and what
8 it doesn't appear to have happened, is that analysis has ever
9 occurred, why she was not permitted to talk to those people?
10 Because Your Honor knows. You have tried cases as a defense
11 lawyer 26 years. The Government doesn't just get to come in
12 and say, no, Ms. Bennett, you can't talk to people you have
13 known 30 and 40 years while we investigate you and prosecute
14 you. There has to be some showing.

15 THE COURT: Right.

16 MR. SCHAMEL: And there is no record here that --

17 THE COURT: And I don't -- you know, based on what
18 -- the only -- and, again, Mr. Windom can -- and I don't want
19 to get too far ahead of all this, but, you know, I have never
20 seen the list, I don't -- the only thing I was able to track
21 was the list was presented at the Rule 5 out in the District
22 of New Mexico. And then Judge DiGirolamo at the initial here
23 adopted that list that was presented to your client, or your
24 limited conditional client, at the initial appearance in New
25 Mexico.

1 And I have never seen the list and I don't think
2 Judge DiGirolamo has ever seen the list. I think he just
3 incorporated based on the Government's request that that list
4 be incorporated into his release conditions, which is, as you
5 know, a routine condition of release that you can't talk to
6 witnesses, or codefendants, or people who are involved in the
7 case to protect, really, the Defendant from allegations of
8 obstruction, or witness tampering, or -- so it is a protection
9 for both sides, both for the defendant, so he or she doesn't
10 engage in conduct that could be mischaracterized by the
11 Government as obstruction and/or witness tampering.

12 And it also protects witnesses and victims from
13 being harassed by somebody who has been charged with a crime.
14 So it is kind of a two-fold thing.

15 So I hear what you are saying. Let me --
16 Mr. Windom, let me just ask -- go ahead.

17 MR. SCHAMEL: May I say one last thing before I sit?

18 THE COURT: Yes, one other thing. Go ahead.

19 MR. SCHAMEL: I agree, Your Honor. I think your
20 analysis is correct. Therein lies the problem, which is this
21 -- and I am -- again, I am trying to be very careful here
22 because I don't -- I am not even alleging anything improper by
23 the Government; right? I mean, they have their position.
24 They raised it.

25 Where the failure seems to have been is up until

1 this moment, right now when I am standing before Your Honor,
2 this conversation has never occurred. Whoever this person, he
3 or she, in New Mexico who stood in as sort of the ceremonial
4 lawyer for that particular hearing, did not raise this issue,
5 there was no inquiry, there was no pushback, there was no
6 anything, so the judge just signed this mystery list of
7 individuals.

8 Then it comes here and nobody raises it so -- it is
9 not Judge DiGirolamo's job to raise that *sua sponte* --

10 THE COURT: Right.

11 MR. SCHAMEL: -- so nobody raises it. But she is
12 allowed to keep working and some of these people -- and I --
13 with restrictions understandably -- some of these people --
14 most of these people are people she has had relationships --
15 ongoing relationships for 30 plus years. And so she is under
16 indictment. These are her closest friends. And if she -- if
17 there are technical violations, there are technical
18 violations. But to have conversations -- why are some of
19 these people on the list? Particularly when the one person I
20 have even talked to in the last -- well, now it is about 20
21 minutes -- said they had no interest in being on that list in
22 the first place.

23 THE COURT: Yes, but it is not their call; right?

24 MR. SCHAMEL: No, it is not. But we need to have at
25 least -- if the Government comes up and says she can't talk to

1 Joe Blow; right? And I say, okay -- Joe Blow is an investor.
2 And Joe Blow comes to me and says, I have been her best friend
3 since we went to kindergarten together. We talk all the time.
4 We don't want to talk about the case. We are not going to
5 talk about the case, but we go to church together every
6 Sunday, we have our holidays together, I sometimes stay in her
7 house when I'm visiting. But we are not going to talk about
8 the case. We make those concessions all the time in cases.
9 We have family members that are co-defendants, they are
10 allowed to talk to each other. They are not allowed to talk
11 about the case.

12 THE COURT: I can't help, but early on in my
13 judicial career I actually ordered a wife not to have any
14 communication with her husband. They were both co-defendants.
15 And the husband said to me at a hearing, --

16 MR. SCHAMEL: That is fine.

17 THE COURT: -- Thank you very much.

18 MR. SCHAMEL: (Laughter.)

19 MR. WINDOM: (Laughter.)

20 THE COURT: So, you know -- but I appreciate that.
21 I mean, and I get it. I get it. But I also -- I hear you and
22 I understand.

23 MR. SCHAMEL: Yes.

24 THE COURT: I understand that.

25 MR. SCHAMEL: And that is -- and obviously, I am

1 putting a little bit -- putting the cart before the horse and
2 I am not trying to get out too far in front of this and say,
3 okay, everybody on that list she should be able to talk to and
4 so if she violated it doesn't matter, no harm, no foul.

5 THE COURT: Right.

6 MR. SCHAMEL: That is not the argument I am making.

7 What I am saying is there hasn't been a careful
8 analysis of the people that are on that list. If there had
9 been violations, that there have been phone calls between now
10 and the 3rd of September, I would assume that we are going to
11 see that in the superseding indictment, there are going to be
12 obstruction charges. She is going to have to live with that.

13 But the question for us is; A, am I prepared? And
14 B, can I properly make the argument to Your Honor that she is
15 not a flight risk as she sits here, again, in court? And
16 having had the GPS monitoring taken off on her -- and are
17 there a condition or conditions that will assure the safety of
18 the community from even financial harm?

19 THE COURT: Right.

20 MR. SCHAMEL: But I will sit here.

21 THE COURT: All right.

22 So, Mr. Windom, before you say whatever you wish to
23 say, but could you kind of follow then to your comments --
24 isn't it somewhat colorable -- no pun intended on the chart
25 here which is all color coded -- but isn't it kind of unfair

1 to have these kinds of technical exhibits with numbers, and
2 dates, and people, and not share them for whatever
3 prosecutorial reason with counsel for Ms. Bennett, and then
4 come in and say we are moving for detention and this is why we
5 are moving for detention and not having allowed limited
6 conditional defense counsel or civil lawyer who is not stuck
7 in a very complicated criminal case, the opportunity to
8 prepare for the hearing and, at least, you know, look at this
9 -- look at these documents before the Government shows them to
10 me and moves for taking away her liberty and detaining her
11 based on that conduct and they don't have an opportunity to
12 really review this?

13 MR. WINDOM: I will give you my answer and I will
14 give you a resolution. The answer is no, it is not unfair.
15 This happens every single day in this courthouse at regular
16 initial detention hearings when somebody is arrested. The
17 lawyers are brought into the case five minutes before -- not
18 48 hours before -- and told, okay, we are having a detention
19 hearing. Judge Day might have it today. Judge Collier* or
20 yourself my set it off a few days. But they are routinely
21 handled the same day as the defendant is arrested, presented
22 with whatever they are presented with at the hearing. So it
23 is not unfair.

24 An additional fact attenuating the situation here,
25 last week Ms. Bennett was supposed to appear in this

1 courthouse. Her lawyer at the time, Jen* Negolia* -- I
2 believe was the one at the time -- told her she didn't have to
3 come.

4 THE COURT: Yes, I heard that. Yes. Yes.

5 MR. WINDOM: We were going to execute -- it was
6 Morvillo last week?

7 THE COURT: It was Gregory Morvillo.

8 MR. WINDOM: It was Greg Morvillo last week by
9 phone. I am sorry. I am getting them confused as well.

10 THE COURT: That is okay. There has been so many
11 lawyers. I understand that. I can understand.

12 MR. WINDOM: He told her she didn't have to show up.
13 We were going to execute the warrant.

14 MR. GREMMINGER: It wasn't me, Your Honor. I had --

15 THE COURT: No, I know, it wasn't you.

16 MR. GREMMINGER: Okay.

17 MR. WINDOM: We were going to execute the search
18 warrant that we executed on her today last week. The search
19 warrant was to obtain the cell phones that she was using to
20 violate the court order. The intention was always after we
21 executed the search warrant to show the information that we
22 have to defense counsel. It was defense counsel's choice last
23 week to tell their client not to come to the courthouse. We
24 were unable to execute the warrant. We effected that warrant
25 today. I immediately handed -- less than 30 seconds later --

1 the information that Defense Counsel now has and -- this in
2 front of Your Honor -- to them.

3 We could not risk giving it to them beforehand
4 because since she already has violated the court order,
5 purchased a burner phone, made many calls on that. We believe
6 that she would destroy evidence if her defense counsel were in
7 possession of the information that we are using to seek
8 detention. We could not do that beforehand.

9 The resolution I promised is this: They want to
10 have time to review this? No problem. We will sign a -- if
11 they want to sign a voluntary detention order today we can
12 come back their election.

13 THE COURT: All right. Let me ask you this, what if
14 I said to all of you, you know what? What is really before me
15 today is the notice of apparent violation and let's deal with
16 that today. And then come back tomorrow because -- you know,
17 the cynicism that a former criminal defense attorney has to
18 the complexity of the review process I kind of know. And I am
19 not sure that, you know, the issue is written large here. I
20 am not going to engage, at least at this point, in time with
21 like going through each of these people and getting their CVs
22 and finding out that they have some social interaction with
23 Ms. Bennett. I am not interested in that. And that issue is
24 -- you know, when I hear things like burner phones and things
25 like that, obviously, that creates some interest in my mind.

1 But let me ask Mr. Schamel.

2 What do you think about the Government's proposal?

3 MR. SCHAMEL: Sign a voluntary detention order?

4 THE COURT: Uh-huh.

5 MR. SCHAMEL: I think that I would be the worst
6 temporary, sort of, for the day, lawyer, in the history of
7 this courthouse probably.

8 THE COURT: Okay. So you are ready to go forward
9 today?

10 MR. SCHAMEL: No. I think, Your Honor, I have
11 articulated a number of reasons on the record why, I think,
12 that we -- I think Your Honor, frankly, is right. I don't
13 think we have the proper notice to be here for these new
14 violations. I mean, we have -- as Your Honor said when you
15 sat down, August 29th we have a violation when she was --

16 THE COURT: Right. So let me just -- let me just
17 cut to the chase here.

18 MR. SCHAMEL: Sure.

19 THE COURT: What would happen just -- and I know
20 judges aren't supposed to give advisory opinions, but this
21 isn't an advisory opinion. You don't know me. I don't know
22 you. Ms. Bennett doesn't know me. But I have a far different
23 view of release conditions than, perhaps, some of my
24 colleagues do. And my philosophy is pretty simple. That I
25 give you release conditions and we make a contract, you will

1 follow them and I will let you out. If you don't follow them,
2 I will put in detention. That is basically my philosophy.

3 So we go back to the allegations on August 29th with
4 Ms. Bennett telling Pretrial that somehow she is so bewildered
5 by what has happened to her that she can't find her way back
6 to Chevy Chase when she is ordered to go directly home, and
7 that the Defendant explained that she believed she was
8 experiencing stress from the day's events and kept taking
9 wrong turns to her home.

10 And Pretrial then is irritated because they told her
11 expressly, Go right home and we will meet you there. And in
12 -- within hours of being put on release conditions -- not
13 getting -- forget about the no-contact -- or forget about
14 this. I will turn this over. I won't look at this. But
15 forget about this. Let's talk about the August 29th. Within
16 hours of being put on release conditions she is not following
17 her instructions.

18 And you know, and I know under 3148, if I make a
19 finding that she is unable or unwilling to abide by conditions
20 of release, then I can do other things. But, you know, why
21 can't we just talk about the August 29th? And then I will
22 make a decision as to whether conditions of release are
23 appropriate, or whether she should be detained. And at that
24 point the Government can say whatever they want about all
25 these calls and what they view as her obstructive conduct.

1 And we can set this in for another hearing tomorrow or -- what
2 is today? Today is Wednesday?

3 MR. WINDOM: Thursday.

4 THE COURT: Thursday. And we can set it in for
5 another hearing tomorrow after you have had an opportunity to
6 -- and you are with a big firm; right? You are with -- or who
7 are you with? Womble?

8 MR. SCHAMEL: Womble Carlyle.

9 THE COURT: Yes. They got tons of lawyers so you
10 can like work this thing up overnight and just --

11 MR. SCHAMEL: (Laughter.)

12 THE COURT: -- and with all your associates and
13 everything else and be fully ready with your defense team
14 tomorrow and enter your full appearance to represent her and
15 we don't have to worry about this conditional limited
16 representation.

17 So why don't we move forward with the hearing today?
18 Well, we are going to move forward with the hearing today,
19 talking primarily about the notice of apparent violation on
20 the 29th. And if the Government believes that they want to
21 bring additional information to my attention, we will -- I
22 will listen to that as well.

23 But we are not going to -- everybody is on notice at
24 least minimally that we are here for the August 29th memo,
25 which Pretrial says within hours Ms. Bennett's supervision is

1 poor and they want a prompt bail review hearing.

2 And Mr. Ridgeway is here. And I am going to hear
3 from him about what is going on and how supervision has been.
4 And I think that is a more logical way to approach this.

5 MR. SCHAMEL: I think that is completely fine, Your
6 Honor.

7 THE COURT: Okay.

8 MR. SCHAMEL: That makes a lot of sense. And I
9 think -- may I address the question you proffered to me about
10 -- I think you asked me sort of -- or maybe it was rhetorical
11 -- about so this is the way you see things and this is the how
12 you do. And candidly I wish you had been the judge at the
13 first hearing and I had been the lawyer at the first hearing
14 and there wouldn't be a need for this hearing because --

15 THE COURT: Be careful what you ask for.

16 MR. SCHAMEL: No, actually I get a sense, Your
17 Honor, that you and I are sort of the same ilk on these
18 things. I don't play in the grey on these.

19 THE COURT: Right.

20 MR. SCHAMEL: You know, my view is if we are in
21 court and we are making excuses for why I did something, we
22 have already done something wrong.

23 THE COURT: Okay.

24 MR. SCHAMEL: So I hear you on the 29th. I mean, I
25 am -- I used some colorful language that my mother is not very

1 proud of when I talk to my clients about what the rules are,
2 what they have to do when we follow court. And I think Your
3 Honor would have been probably -- and I don't have the benefit
4 of having heard the court reporter's version of what happened
5 last time, but it would have been pretty clear and I think I
6 would have been equally clear.

7 By the same token though, I mean -- and this is why
8 I think it is important what I am saying, she didn't come to
9 the last court appearance. A lawyer -- whichever lawyer it
10 was --

11 THE COURT: Yes, let me just put -- let me just --

12 MR. SCHAMEL: Right.

13 THE COURT: I listened to that. It is incredible
14 risk for an attorney to make a decision to tell his or her
15 client not to come to a court appearance. Judge DiGirolamo
16 handled it the way Judge DiGirolamo chose to handle it.

17 Would I have been as accommodating? No. But that
18 is water under the bridge. And, you know -- but it is a fair
19 argument that whether she didn't come because the lawyer told
20 her not to come or she didn't come because she didn't feel
21 like she wanted to be bothered with coming -- I mean, those
22 are -- that is a fair inference that both parties can argue.
23 But I am not going to hold -- you know, there is -- I am not
24 going to put any weight at all into Ms. Bennett's not being
25 physically present at the September 14th hearing before Judge

1 DiGirolamo. That has got no weight. I am not considering.

2 It has been raised, but I am not considering that in any way.

3 MR. SCHAMEL: I didn't suggest you were, Your Honor.

4 THE COURT: Right.

5 MR. SCHAMEL: The reason I was bringing it up was
6 context because I think we have to -- again, context is
7 important. And this is why the Procedural Rules say, when
8 possible, the judge who issued the order is supposed to be the
9 judge who does the hearing.

10 THE COURT: I am not sure it says that. I am not
11 sure it says that. It says if there is a commission of a new
12 crime; right?

13 MR. SCHAMEL: I will have to look back at 3148,
14 but --

15 THE COURT: Well, go ahead. Go ahead. But let me
16 put it this way, let's nip this in the bud too, I got a
17 referral -- I got a --

18 MR. SCHAMEL: I have no problem with Your Honor
19 doing it. I am not raising that as a --

20 THE COURT: No. No. I mean, we are not going back
21 to Judge DiGirolamo and --

22 MR. SCHAMEL: And I am not suggesting that we were.

23 THE COURT: And he set it in for me and I now have
24 the referral from Judge Xinis on the attorney inquiry --

25 MR. SCHAMEL: Correct.

1 THE COURT: -- which is a broad spectrum medication.
2 And, you know, you and I -- if you are no longer the limited
3 conditional attorney, you know, you are going to be
4 inextricably intertwined with me as we move through all these
5 preliminary things.

6 So it is not going -- I hear what you are saying.
7 It is not going back to Judge DiGirolamo. It is, you know --

8 MR. SCHAMEL: And I wasn't asking for that, Your
9 Honor. I am just saying, we are -- you and I are both coming
10 at this with fresh eyes not having been there.

11 THE COURT: Sure. Right.

12 MR. SCHAMEL: And the manner -- and I will say this
13 -- I am always reluctant on the record to say things that
14 sounds like I am throwing someone under the bus -- but the
15 loosey goosey manner in which representations were made on
16 Ms. Bennett's behalf prior to today, make me inherently
17 uncomfortable. The fact that any lawyer would tell their
18 client in any circumstance in a criminal case not to come to
19 court is completely beyond the realm of understanding. I do
20 not have any idea why anybody would say that.

21 When I tell my clients to come to court they come an
22 hour early. We checked in with Your Honor's courtroom deputy,
23 Reggie, at ten minutes after one as soon as your -- whatever
24 time Your Honor got off the bench from your prior hearing. We
25 are here early. We are here promptly always, unless I have

1 something in writing saying otherwise.

2 So what I am trying to -- the point I am trying to
3 make is, when an order is issued to my client to go directly
4 home, before we walk out of the courtroom I turn to my client
5 and say, Do you have to pick up your kids? Do you have gas in
6 your car -- to stop for gas? And then if they have to and
7 say, Look, I got no gas, or I didn't get ride here, I have to
8 wait to get picked up, I go back on the record and I put it on
9 the record in front of the court and say, Your Honor, my
10 client can't go directly home. She has to pick up her child.

11 I am not saying Ms. Bennett has a child, but -- and
12 take those kinds of precautions to avoid exactly this kind of
13 problem. And what I am trying to ask Your Honor is to put
14 yourself in the situation of we don't know what those
15 conversations were and we don't know that she was given that
16 sort of scared straight talk that Your Honor has already
17 started giving that I have been giving for the 48 hours I have
18 known Ms. Bennett.

19 So I just -- I want, contextually, Your Honor to
20 understand it is -- it sounds so cheesy to say it -- we have a
21 new sheriff. This is a new situation. I don't practice the
22 way it appears that they have practiced over the last couple
23 of weeks.

24 THE COURT: Right. But what if I never see you
25 again? I mean, I will probably cry, but what if I never see

1 you again? I mean, what if your conditional limited position
2 in the court, and all of how you practice law, and, you know
3 -- I know who you are and you have a great reputation. But,
4 you know, what if I never see you again? And -- because you
5 couldn't work out with Ms. Bennett the logistics of your
6 representation as counsel of choice? And then you disappear.
7 And then, Hi, Mr. Gremminger.

8 MR. SCHAMEL: (Laughter.)

9 THE COURT: So, you know, what are we -- I hear what
10 you are saying. Let me just let Mr. Windom say something.

11 MR. SCHAMEL: Yes, Your Honor.

12 THE COURT: But let me just say just to answer again
13 to kind of tamp down some things if we can. My reading of
14 3148 says this, "To the extent practicable, a person charged
15 with violating the condition of release that such person no
16 commit a Federal, State, or local crime during the period of
17 release, shall be brought before the judicial officer who
18 ordered the release and whose order is alleged to have been
19 violated."

20 So the culture in this court also is that, you know,
21 whoever pulls duty and gets it, gets it. And that is why I
22 got it. So, you know --

23 MR. WINDOM: I can speak on that, actually, please.

24 When we -- when the parties mutually requested that
25 the detention hearing be pushed, the parties talked about what

1 dates worked for them. One of them was in New York. I can't
2 just walk into the courthouse on any given day.

3 That defense counsel and Government counsel were
4 available today, as it turns out. When we called chambers and
5 said, Hey -- Judge DiGirolamo's chambers -- and said, Hey,
6 let's set it in. They said, Sure, not a problem. Oh, Judge
7 Sullivan is on the bench that day. It works for you all, but
8 Judge Sullivan is going to be hearing it.

9 So that is -- as a practical matter, why we are here
10 today before you. There is absolutely no legal bar to have
11 any judicial officer in this district hearing this.

12 THE COURT: Right.

13 MR. SCHAMEL: Agreed. And I was trying to make a
14 representation -- if I did it awkwardly and unartfully, let me
15 clear up the record for Your Honor. I am not suggesting that
16 Your Honor is not judicially appropriate to hear this. I am
17 not suggesting in any way that it shouldn't be before Your
18 Honor or I am not asking Your Honor to send it back to Judge
19 DiGirolamo.

20 What I am suggesting is you weren't here, I wasn't
21 here. So I am always reluctant to go too far down the pike of
22 how it should have been assuming that we did it the right way.

23 THE COURT: Right.

24 MR. SCHAMEL: And given the fact that this young
25 woman was told not to come back to court, and her lawyer has

1 confirmed that, that tells me it is a sort of loosey goosey --

2 THE COURT: Right.

3 MR. SCHAMEL: -- attitude that is not really in line
4 with the way it should be handled.

5 THE COURT: All right. I understand. All right.

6 So, Ridgeway --

7 MR. RIDGEWAY: Yes.

8 THE COURT: -- let me -- let's start talking about
9 the -- and I understand what everybody is says and I will take
10 into consideration as how we proceed.

11 But, Mr. Ridgeway, good afternoon.

12 MR. RIDGEWAY: Good afternoon.

13 THE COURT: So I have read -- and, I guess,
14 Mr. Windom, you have -- and Ms. Pulice have reviewed the
15 August 29th memo; correct?

16 Mr. Windom? Hello?

17 MR. WINDOM: Yes, sir. I am sorry.

18 THE COURT: Okay. And you have reviewed the August
19 29th memo?

20 MR. WINDOM: yes.

21 THE COURT: All right. And, counsel, both of you
22 have reviewed the memo as well?

23 MR. SCHAMEL: Mr. Ridgeway was kind enough to give
24 me one today and I have had a chance review it.

25 THE COURT: Right. Okay. All right.

1 MR. SCHAMEL: Thank you, Your Honor.

2 THE COURT: So, Mr. Ridgeway, why don't you tell me
3 -- I mean, I read what you say happened hours after her placed
4 -- being placed on conditions of release from
5 Judge DiGirolamo. So why don't you tell me whatever it is
6 that you want to tell me. And include in your comments to me
7 how conditions of release are progressing since she has been
8 placed on release conditions, and including as how they have
9 been modified.

10 MR. RIDGEWAY: Okay. Your Honor, first of all I
11 want preface this by saying that at the August 28th initial
12 appearance before Judge DiGirolamo I wasn't there for that
13 hearing. But our office did make -- upon hearing the
14 additional --- by the Government, we did make a recommendation
15 to be detention in this case based on flight and danger in
16 this case.

17 So we are coming from that position as -- and then
18 Judge DiGirolamo ordered Ms. Bennett released on the very
19 strict conditions to include location monitoring.

20 As Your Honor knows, you know, when someone is
21 placed on location monitoring, it is the most restrictive form
22 of supervision that we provide the court. And it is expected
23 that that defendant abide by all those conditions. And the
24 instructions are from our office.

25 As noted in my report here, you know, there -- it

1 didn't happen that way. Ms. Bennett, she was instructed to go
2 back home. I --

3 THE COURT: Did you instruct her or did somebody
4 else?

5 MR. RIDGEWAY: I did.

6 THE COURT: Okay.

7 MR. RIDGEWAY: Yes, I met -- yes, I -- so I wasn't
8 here for the hearing, but I was -- I --

9 THE COURT: Right. So they had the regular --
10 somebody else, whoever covers the writers were here then.

11 MR. RIDGEWAY: Correct.

12 THE COURT: She went down to Pretrial and got
13 assigned to you as electronic supervisor or whatever it is.

14 MR. RIDGEWAY: Yes, Your Honor. Yes. So we went
15 through the whole thing and I made very clear to her -- gave
16 it to her in verbal instructions and written instructions
17 letting her know that she needs to go straight back home, make
18 no additional stops. And I was going to meet her back at her
19 residence to install her on location monitoring equipment.

20 I got -- she left our courthouse around three
21 o'clock. And, you know, I got to the -- her residence -- I
22 left -- you know, I stuck around the office for a while. And
23 still got there at, I think, around four o'clock, Your Honor.

24 But as my report here indicates, she didn't call me
25 until -- and let me know that she was actually at the

1 residence until 5:13 p.m. So --

2 THE COURT: So --

3 MR. RIDGEWAY: So we are talking about over two
4 hours to get back home.

5 THE COURT: So where -- just so the record reflects,
6 where was -- she was supposed to go straight home from the
7 Greenbelt courthouse to where is straight home? Where was
8 that?

9 MR. RIDGEWAY: In Chevy Chase, Maryland.

10 THE COURT: Okay.

11 MR. RIDGEWAY: So from here to the courthouse.

12 THE COURT: All right.

13 MR. RIDGEWAY: So --

14 THE COURT: So the beltway to Connecticut Avenue or
15 the beltway to Wisconsin or wherever Chevy Chase --

16 MR. RIDGEWAY: Yes. Correct.

17 THE COURT: Wherever -- okay.

18 MR. RIDGEWAY: And I didn't have much difficulty
19 getting there on that date. There wasn't any excessive
20 traffic getting to the location.

21 It wasn't about that. As I note here in this
22 report, according to Ms. Bennett she says that she got -- kept
23 on getting lost. She kept on taking wrong turns in getting to
24 the residence.

25 But I will note that --

1 THE COURT: So from Greenbelt to Chevy Chase, where
2 she lives, she told you that she was making wrong turns. That
3 is why she wasn't there when she was supposed to be there?

4 MR. RIDGEWAY: Correct. Yes.

5 THE COURT: Okay.

6 MR. RIDGEWAY: But, you know, I think the other
7 thing that is important to note is that during this time --
8 because I arrived there well before she did -- I had left
9 before she got there because I -- at that point I hadn't had
10 with her. When I first got to her residence I only met with
11 her assistant after finally getting into the residence. It is
12 a gated residence. But after I finally spoke with the
13 assistant he tried to make contact with her. I had also made
14 contact with her attorney to what her attorney noted that she
15 wasn't here.

16 THE COURT: Which attorney?

17 MR. RIDGEWAY: I --

18 THE COURT: Him? Mr. -- okay.

19 MR. RIDGEWAY: Yes. I believe so.

20 THE COURT: All right.

21 MR. RIDGEWAY: And so I let him know that, you know,
22 there was an issue. I mean, at this point, Your Honor, as you
23 probably can grasp, that I was probably thinking that
24 Ms. Bennett had, you know, absconded at that point.

25 So I left the residence with the mind that I was

1 going to be coming back to the office to draft a request for a
2 warrant. On the way back to the office she finally called me.
3 And, again, Your Honor, if I haven't said so already, I was
4 making -- you know, I had been making calls to her, I made the
5 call to her attorney. She finally calls me back and it wasn't
6 until, as the report indicates -- at 5:13 is when she actually
7 got back into the residence. And then I did ultimately go
8 back to the residence and ultimately installed her on the
9 location monitoring equipment that day.

10 Your Honor, that is not the way it is supposed to
11 happen at all. And I find it difficult to believe that
12 Ms. Bennett wasn't able to answer my calls. You know, if --
13 again, I know she indicates that she was getting lost, went
14 the wrong way on the beltway, but why she also didn't respond
15 to my calls -- my numerous calls to her cell phone is another
16 question I have. I don't think was answered.

17 THE COURT: So approximately about how many calls
18 did you make to her that she didn't pick up on, if you recall?
19 Did you keep a log of that? Or just if you can estimate for
20 me.

21 MR. RIDGEWAY: It was a number. It was several.

22 MR. WINDOM: I can tell you that, Your Honor. Five.

23 THE COURT: Oh, because it is on this list? Or some
24 other list?

25 MR. WINDOM: It is not on that list.

1 THE COURT: Okay. All right. So five calls. All
2 right.

3 MR. SCHAMEL: They have got a lot of lists, Judge.

4 MR. RIDGEWAY: So, again, Your Honor, you know, we
5 -- you know, our office would have preferred for this hearing
6 to have happened rapidly after -- you know, we -- it just
7 didn't happen that way. We did not get back before the Court
8 for this hearing -- for the bail review hearing on this
9 violation. And, you know, for all the different reasons that
10 have kind have been -- gone through in the court today.

11 Since --

12 THE COURT: So what happened with -- again, just
13 because we are -- I am trying to recreate the circumstances
14 here. So was she placed on EM that night or --

15 MR. RIDGEWAY: Yes.

16 THE COURT: Okay.

17 MR. RIDGEWAY: Yes, she was.

18 THE COURT: All right.

19 MR. RIDGEWAY: And so -- and since that date, you
20 know, as far complying with location monitoring, there has not
21 been any issues. She has --

22 THE COURT: Well, what was the modification that
23 Judge DiGirolamo made rather informally? What was that?
24 Would that modification affect the electronic monitoring or
25 something else?

1 MR. RIDGEWAY: Your Honor, that was due only because
2 our -- we were -- after numerous attempts -- I made numerous
3 visits to her residence to attempt to fix the -- we were
4 having issues with location monitoring equipment itself.

5 THE COURT: Right. And that is what I am trying to
6 get at. What were those issues?

7 MR. RIDGEWAY: We could not get a good signal in the
8 residence. I don't -- I am not entirely sure if it was
9 because of the concrete walls in the -- her condo. You know,
10 it is a -- I have only had this happen one other time when I
11 could not get our equipment to function properly. But it
12 would not function properly in her residence.

13 So we ultimately had to switch her over to the voice
14 ID system.

15 THE COURT: But why isn't -- could a cell unit work?

16 MR. RIDGEWAY: No, Your Honor. Same -- I actually
17 went from a land-line unit to a cell unit. Or actually, vice-
18 versa. From a cell unit to a land-line unit. We actually
19 tried some -- another unit that was supposedly going to give
20 us more range. None of those units functioned properly --

21 THE COURT: Okay.

22 MR. RIDGEWAY: -- in that residence.

23 THE COURT: So when Judge DiGirolamo modified it to
24 voice recognition were you out of supervision at that point
25 and got transferred to someone else or did you --

1 MR. RIDGEWAY: No, I still retained this case.

2 THE COURT: Oh, you stayed? Okay.

3 MR. RIDGEWAY: Yes.

4 THE COURT: So what has been going on since then?

5 MR. RIDGEWAY: She has been compliant with all my
6 instructions as far as reporting in and the location
7 monitoring parts.

8 Your Honor, I think the other information is going
9 to come from the Government.

10 THE COURT: Right.

11 MR. RIDGEWAY: But, again, our office's
12 recommendation hasn't changed since the initial appearance,
13 which is detention in this case.

14 THE COURT: So what do you have her on exactly right
15 now? What do you mean -- for the record, what does voice
16 recognition mean?

17 MR. RIDGEWAY: So she gets calls randomly throughout
18 the day and she has to be there present to answer these calls,
19 she has to speak into the phone and repeat a series of numbers
20 that will verify it is her voice.

21 THE COURT: So it is the same thing we use for
22 curfew?

23 MR. RIDGEWAY: Correct.

24 THE COURT: The voice recognition for curfew? It is
25 the same the thing?

1 MR. RIDGEWAY: Same thing. Same thing.

2 THE COURT: Okay.

3 MR. WINDOM: Is she on it completely right now?

4 MR. RIDGEWAY: Yes.

5 MR. WINDOM: And it is only voice recognition during
6 the time ---, correct?

7 MR. RIDGEWAY: Right, 9 p.m. to 6 a.m.

8 MR. SCHAMEL: I am sorry, I just couldn't get the
9 Government's questions on the record.

10 THE COURT: Yes, I don't think they probably wanted
11 you to hear, but go -- what --

12 MR. RIDGEWAY: Yes. She --

13 MR. WINDOM: I will speak. My understand was there
14 was curfew -- voice Ident during curfew. Not all day.

15 THE COURT: Oh, okay. All right.

16 MR. RIDGEWAY: Correct.

17 THE COURT: All right. Okay.

18 MR. WINDOM: And, Mr. Ridgeway, did -- before you
19 step back, did Ms. Bennett tell you anything on August 28th
20 about where exactly she had been after she left the
21 courthouse?

22 MR. RIDGEWAY: Where she had been after the
23 courthouse?

24 MR. WINDOM: Yes.

25 MR. RIDGEWAY: Again, as I recall, she went -- she

1 said she went the wrong way on the beltway. And that was
2 about it. We didn't talk much about where she had been, I
3 don't believe. I mean, I will check my notes here though.

4 MR. WINDOM: No, that is what I was referring to.

5 MR. RIDGEWAY: Okay.

6 MR. WINDOM: That she had said she went the wrong
7 way on the beltway.

8 THE COURT: Right. And I just noticed this too, the
9 Defendant stated her phone was broken and later added that she
10 had silenced her phone. So did you make any inquiry as to her
11 phone at all? But she did call you, so why was her phone
12 broken?

13 MR. RIDGEWAY: Yes. Your Honor, --

14 THE COURT: If she called you --

15 MR. RIDGEWAY: Correct, Your Honor. And I think --
16 you know, I think the Government has some other information.
17 But the screen was cracked. I did inquire about her phone. I
18 did see that it was cracked. But, again, she was using her
19 phone and she has been using her phone.

20 THE COURT: Right.

21 MR. RIDGEWAY: So --

22 THE COURT: Okay. Counsel, do you have any kind of
23 informal questions for Mr. Ridgeway? One or two questions
24 that you want to follow up on?

25 MR. SCHAMEL: I think if, if I heard him correctly,

1 he said since the day of the 29th, there has been complete
2 compliance with everything he has asked of her.

3 He didn't -- there was a -- I am aware -- and maybe
4 I am wrong about this -- if there was a particular incident
5 like there was a fire alarm one night and she left so she
6 called in to make sure she was calling in property. And he
7 was happy with that.

8 But my understanding since this initial court
9 appearance that I would like to talk about in a minute, Your
10 Honor, there hasn't been any complaints by Pretrial. I am a
11 little troubled, candidly, by the fact that they haven't
12 changed their view about her flight risk even though she keeps
13 coming to court.

14 THE COURT: Okay. Well, don't worry about that.
15 But, Mr. Ridgeway, based on his question to you -- Counsel's
16 question to you, has she been compliant since this time? And
17 did she call to say she had to leave the building because of a
18 fire alarm or something like that?

19 MR. RIDGEWAY: Your Honor, there have been no
20 location monitoring violations to my knowledge.

21 THE COURT: Okay. Okay. All right.

22 Mr. Windom?

23 MR. WINDOM: Thank you, Your Honor.

24 So where was she and what was she doing?

25 MR. WINDOM: Well, I think -- let me just see -- I

1 got -- short circuit this because, not unnecessarily, but no
2 one will ever convince me that she was experiencing stress
3 from the days' event and kept taking wrong turns to return
4 home. So I -- you can conclude that I don't believe that. So
5 go ahead.

6 MR. WINDOM: I am going to hand up one other exhibit
7 that had not intended to use. I just handed it to Defense
8 Counsel.

9 Your Honor, at the time of the initial appearance on
10 August 28th, the Government had a pin up on Ms. Bennett's
11 phone. It wasn't -- it didn't give us GPS location, but it
12 did give us cell towers.

13 We have her -- on this exhibit -- and I will just
14 put it up here on the screen. Consistent with parts of what
15 she told Pretrial at the very top, this location. She left
16 the courthouse. She did go in the opposite direction on the
17 beltway.

18 Just for the record, Your Honor, it is at most a 25
19 minute drive from here to Ms. Bennett's home.

20 THE COURT: Where in Chevy Chase does she live?

21 MR. WINDOM: She lives right on the D.C. border.
22 She lives about --

23 THE COURT: So Friendship Heights?

24 MR. WINDOM: -- two, three blocks north of the D.C.
25 border on Wisconsin.

1 THE COURT: So basically by Mazza, Friendship
2 Heights. Somewhere around there?

3 MR. WINDOM: Across from -- there is a Tiffany's and
4 all these fancy stores on the east side of the road. She is
5 in a building on the west side of the road about a block past
6 the Starbucks there in Friendship Heights.

7 THE COURT: Okay. All right.

8 MR. WINDOM: Two blocks from the Starbucks.

9 So she goes in the other direction on the beltway
10 around. And then she comes up -- she goes around east side of
11 the beltway, appears to come through the city, and then up
12 through -- up on 34th. Up on Rock Creek. And most likely,
13 based on the fact that she was at Wisconsin and MaComb, she
14 probably took 34th Arena up through the city.

15 And then she is basically at home, near her home,
16 for an hour. A solid hour before making contact with
17 Pretrial. So she didn't just get lost. She wasn't making
18 wrong turns. She was physically in the vicinity of her home.
19 And we know it wasn't just, oh, the cell phone somehow is over
20 there and she is somewhere else because she is using it.

21 The bottom part of this is who she is calling. You
22 can ignore the 1506 subscriber information. That was an
23 earlier -- that was an earlier subscriber. There is a
24 different subscriber than that individual there.

25 She left the courthouse. She made a call. She then

1 called her lawyer for 41 minutes. Spoke to Mr. McNeal*, who
2 is an employee of hers. Spoke to Mr. Fuentes, whose name
3 appears in the Pretrial report, at 4:02 p.m. -- being
4 completely consist with what Mr. Ridgeway said and Mr. Fuentes
5 said, that Ms. Bennett had called Mr. Fuentes at 4:02. And
6 then she gets on the phone again with somebody from work and
7 she doesn't pick up the call from Pretrial. She just doesn't
8 pick it up.

9 The phone wasn't silenced, the phone wasn't broken.
10 She just ignored it twice, 4:14 p.m., 4:17 p.m.

11 Then she just continued apace making phone calls.
12 She called Mr. McNeal again. She called Mr. McNeal again.

13 THE COURT: Is Mr. McNeal the person or the
14 assistant that Mr. Ridgeway -- or is that somebody else?

15 MR. WINDOM: Mr. Fuentes is.

16 THE COURT: Okay. Okay.

17 MR. WINDOM: Mr. McNeal is an employee.

18 THE COURT: Okay.

19 MR. WINDOM: His principle office is just on the --
20 it is actually at Chevy Chase Pavilion where that Cheesecake
21 Factory and all that stuff is.

22 THE COURT: Okay. Sure. Yes.

23 MR. WINDOM: Just --

24 THE COURT: By Western. I know where it is. Yes.

25 MR. WINDOM: Yes, exactly. Western and Wisconsin.

1 THE COURT: Right.

2 MR. WINDOM: So she just ignores the calls. And
3 then she is on the phone with McNeal. And then she just
4 ignores two other phone calls.

5 Takes a call from Mr. Gremminger -- which I assume,
6 given the timing of what Mr. Ridgeway says in his report,
7 Mr. Gremminger called his client right after Mr. Ridgeway
8 called Mr. Gremminger and said, Hey, where is your client?

9 So she picks up the phone for Mr. Gremminger.
10 Appears that it could be a longer voicemail. And then
11 ultimately she does call Pretrial, consistent with what
12 Mr. Ridgeway said, after five o'clock.

13 So you want context. What was she doing? Why was
14 she doing it? Why did she not go straight home? Well, we
15 submit that the evidence in the other charts that we provided
16 to you is that she was intent to find a way around the court's
17 no-contact order. And she spent that time procuring another
18 phone. She spent that time procuring a burner phone. That is
19 the inference from all of the information that we have.

20 I will put up here, Your Honor -- that is the
21 purpose of her evasion of Pretrial, the sheer purpose. So the
22 chart that we presented -- and we don't need to go past,
23 really that day, other than as context for why she did it, but
24 we start off at the top on August 25th. She, Ms. Bennett, has
25 the detention hearing in New Mexico where she is not

1 represented by some stand-in flunky in New Mexico. She is
2 represented by Jen Negolia on the phone from New York. If
3 there was a problem with any of the conditions of release they
4 would be noticed.

5 So she walks out of New Mexico -- I think she got a
6 ride home from the agent because she had to -- or Pretrial
7 because she had to surrender her passport which was at her
8 residence.

9 And she then immediately violates the release order
10 that she just signed. Immediately. That is 9:45 p.m.
11 eastern, 6:45 -- 7:45 in New Mexico? 7:45 in New Mexico. She
12 has just gotten home and she violates right away using her own
13 phone.

14 So she violates with Ms. Pesner*, again with
15 Ms. Pesner.

16 Mr. Collins is an interesting case --

17 THE COURT: So let me just understand something,
18 Mr. Windom.

19 MR. WINDOM: Yes.

20 MR. SCHAMEL: So Pesner -- just in that section that
21 we are talking about right now -- Pesner, Collins, and
22 Johnston -- are all of them on the no-contact list that the
23 magistrate judge in New Mexico ordered no contact with as a
24 condition of release?

25 MR. WINDOM: Every single person on this list.

1 THE COURT: Okay.

2 MR. WINDOM: And there are two sections of the no-
3 contact order. One is no contact, period. One is no contact,
4 essentially, about the case. These people are all in the no-
5 contact, no contact, period, list.

6 So she violates. She violates. She violates. She,
7 on the 26th -- there is an interesting way of violating, which
8 apparently doesn't show up on the toll records, Facetime.
9 Because you go through Apple's proprietary technology. So she
10 has an extensive Facetime conversation with one of the people
11 that she was prohibited from contacting.

12 She then flies --

13 MR. SCHAMEL: I am sorry. Is that -- I just want to
14 inquire with Government Counsel -- is that on here? I am just
15 not seeing it.

16 MR. WINDOM: Yes. Facetime. Type, Column B, Row 5,
17 6, 7.

18 MR. SCHAMEL: All right. Just -- may I approach,
19 Your Honor?

20 THE COURT: Yes, sure. Yes.

21 MR. SCHAMEL: I am just trying to follow on here.
22 Show me. Okay. Got you.

23 THE COURT: So if you look at column A, then there
24 is column B that says, "Type."

25 MR. SCHAMEL: Yes. I got it now. Thank you, Your

1 Honor.

2 THE COURT: And then it says, "Facetime." Right.

3 MR. SCHAMEL: I was looking for a different section.

4 I didn't catch A and B. Thank you, Your Honor.

5 THE COURT: Sure. Okay. That is fine. No problem.

6 MR. WINDOM: She flies back east. And she gets in
7 contact with her personal assistant, Mr. Fuentes. And for
8 whatever reason -- but of course, the logical assumption is
9 that she knows she shouldn't be talking to people -- she gets
10 Mr. Fuentes' phone. And that is the yellow highlighting. And
11 she calls Mr. Collins using Mr. Fuentes' phone. Outgoing call
12 from Mr. Fuentes' phone and then Mr. Collins calls back.

13 THE COURT: So let me -- and then if you choose not
14 to answer, you do so, that is fine. What evidence does the
15 Government have that that call from Mr. Fuentes, the 8588
16 number, to Mr. Collins wasn't in fact Mr. Fuentes, but was
17 Ms. Bennett? Why isn't it just as logical that Fuentes called
18 Collins?

19 MR. WINDOM: We understand that Mr. Fuentes picked
20 up Ms. Bennett from the airport when she arrived on the east
21 coast and I -- without going into massive detail -- we had
22 spoken with Mr. Collins.

23 THE COURT: Okay. All right go ahead.

24 MR. WINDOM: So then she resorts to using her own
25 phone again. This is Saturday, by the way, August 26. She

1 uses her phone to attempt a Facetime call with Mr. Collins.
2 And then receives a text message from Mr. Johnston on the --
3 morning of the 28th, which is when she appears here in court.
4 She was scheduled for an 11 a.m. hearing. So she receives a
5 text message from Mr. Johnston about three hours before she
6 comes here.

7 Then she has her hearing downstairs in 1A with Judge
8 DiGirolamo. She is released on conditions including location
9 monitoring.

10 And here is where it gets interesting. The orange
11 phone is Steve Gremminger's phone. That phone call --

12 THE COURT: So the 4162 is her attorney's call --
13 phone number?

14 MR. WINDOM: The --

15 MR. SCHAMEL: Were you on line 13?

16 MR. WINDOM: Yes. Line 13 is Mr. --

17 THE COURT: Okay. I got you.

18 MR. WINDOM: And he can confirm or deny, but that is
19 our understanding.

20 THE COURT: Okay.

21 MR. WINDOM: But that is his phone. Interesting
22 part about this is she is supposed to be in the courthouse.
23 It is 1:42 p.m. I randomly had a two p.m. hearing downstairs
24 in 1A. I was sitting outside on the bench having some potato
25 chips at 1:50. This call lasted six minutes.

1 I saw Ms. Bennett in the lobby with her counsel two
2 minutes after this call concluded. She was in the courthouse
3 when she borrowed her lawyers phone to violate the order that
4 Judge DiGirolamo had just placed on her. Again, advancing the
5 understanding that she knew she shouldn't be getting in touch
6 with these people.

7 Another reason we know that she knew that is because
8 she told Mr. Collins on this phone call, I shouldn't be
9 talking to you. So then she leaves.

10 Then we get to the Pretrial part. Three p.m. she
11 left the courthouse. We have already put up the pin
12 information, but essentially she is in the vicinity of her
13 office for an hour. And then she meets up with Pretrial
14 around 5:13.

15 The logical inference from the information that we
16 have is that she used that time to buy a burner phone, which
17 we put up there -- to either buy or acquire from somebody
18 else. Perhaps Mr. Johnston. Perhaps some other source.

19 We put up there the tracfone subscriber information
20 for this particular cell phone number. This phone was
21 activated on the same day, August 28th. Right here. And the
22 way -- and my understanding of the way tracfones work is you
23 buy the phone and you buy the plan. So you can buy a tracfone
24 phone, but you can also buy a tracfone card as well, to
25 populate the minutes. And this was a pay as you go plan.

1 So the card was activated at 7:23 p.m. Two hours
2 later the card is activated the same day that she is ordered
3 to report home. So the logical inference of all of this is
4 that she knew that she wasn't able to talk to these folks, she
5 knew that her phone was hot, and she went to go get another
6 phone. And then she activated it from her residence where she
7 was on location monitoring at that time.

8 And she didn't take a slow start to this. There
9 wasn't a slow approach. She immediately got on the phone with
10 -- let's see the number -- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11
11 people on the no-contact list --

12 THE COURT: Can I just ask you a question? I don't
13 mean to interrupt your train of thought.

14 MR. WINDOM: Yes.

15 THE COURT: But I am trying to -- the phone that the
16 Government seized a little while ago pursuant to a warrant
17 that -- I didn't do it so I guess another magistrate judge did
18 it -- was that the burner phone? I will just use it as a
19 broad -- I will just use that colloquially -- a burner -- was
20 that the burner or was that her other 202 number?

21 MR. WINDOM: It was the cracked iPhone. It was not
22 what we are calling the burner phone.

23 THE COURT: Okay. All right. Thank you.

24 MR. WINDOM: So she --

25 THE COURT: You mean the iPhone that wasn't working

1 but the record shows that she was using it?

2 MR. WINDOM: Yes. Which works.

3 THE COURT: That one. Yes. Okay.

4 MR. WINDOM: Which I saw the screen on. It is
5 cracked in the bottom left hand corner.

6 THE COURT: Right. All right. Go ahead. Thank
7 you.

8 MR. WINDOM: So she gets right to it. I mean, she
9 gets right to it. And she calls any number of witnesses that
10 she knows that she is not to have any contact with in any way.
11 These folks, the Government contends are victims in this case.
12 They are investors fraudulently induced to provide funds to
13 Ms. Bennett, Janice Raji*, Susan Pesner again, Mr. Collins.

14 There is another phone number on there that is the
15 same city of Ben Collins. It appears as the same street or
16 nearby where he lives, but we just put "City" then "Collins"
17 because we didn't have the subscriber info for that phone for
18 him.

19 Then Collins again, Mr. Johnston, Mr. Johnston,
20 Mr. Eickelston*. Calls, texts, you name it.

21 This is why she did not go straight home, so that
22 she could acquire a phone. These records only go through
23 September 3rd. She is burning through her minutes. There is
24 three pages. There is 130 separate violations. And I -- you
25 know, there is only so many times you can hear the word

1 technical about a violation before you have to say something
2 about it.

3 These aren't technical violations. The entire
4 reason these people are on this list is because they are going
5 to be witnesses in this trial. She has clearly had
6 substantial sway over them for a number of years to induce
7 them to provide funds as part of this fraud scheme. She is
8 not -- she was using her iPhones in order to --

9 THE COURT: Let me interrupt. I mean, I don't know
10 why I ask people if I can interrupt because I can interrupt
11 anytime I want.

12 MR. WINDOM: I will stop whenever you tell me.

13 THE COURT: But let me ask you this, so -- because I
14 know what he is going to get up and say because he has already
15 said it in his limited conditional appearance. He is going to
16 say, Judge, the affidavit and the conduct alleged by this
17 Defendant in the affidavit is not remotely the same as the
18 indictment that was returned by the grand jury. In the
19 indictment returned by the grand jury we have \$750,000 line of
20 credit or loan from Eagle Bank that was maybe misused or lied
21 about in the process. She said it was allegedly for capital.
22 And then the grand jury has been able to show that, you know,
23 her definition of capital is, you know, lifestyle of the rich
24 and famous, and not anything to do with working capital in the
25 traditional sense.

1 So don't you think at some point, Mr. Windom -- I
2 doubt if want to agree with this, but I have just got to ask
3 you -- that what should I make of the fact that what she is
4 actually -- I guess the criminal complaint is still out there
5 somewhere. I mean, that is still a live case, or did it get
6 merged into this indictment, or --

7 MR. WINDOM: My understanding of that process, Your
8 Honor, is that the indictment takes over the case. Our
9 intention, as we told Defense Counsel, is at some point in the
10 not too distant future, to seek a superseding indictment
11 containing at least the additional charges outlined in the
12 criminal complaint.

13 THE COURT: Okay.

14 MR. WINDOM: I --

15 THE COURT: Which would materially increase the
16 alleged fraud laws for guidelines purposes and everything
17 else?

18 MR. WINDOM: Back up to -- I had estimated loss at
19 this point of over 14 million dollars.

20 THE COURT: Fourteen?

21 MR. WINDOM: Yes.

22 THE COURT: Okay.

23 MR. WINDOM: But, again, given the context, she has
24 not been indicted on that charge yet. She is contacting the
25 people that she is ordered not to talk to on that chart.

1 So there is, you know, pages and pages of this. She
2 -- and by the way, we know the burner is her phone, not
3 because there is some subscriber record that says it is her
4 phone. The subscriber record just says Chevy Chase.

5 One of the people that she called says that she
6 called them on this phone, on this 301 number. So that is how
7 we know it is her phone. And based on what Defense Counsel
8 said a moment ago, I am not sure that they are going to
9 dispute that this is her phone. But we will find out.

10 So that is the context of why she did not obey
11 Mr. Ridgeway. She needed to find a way to contact people not
12 using her own phone. And even then, she was forced -- for
13 whatever reason -- to resort to using her own phone from time
14 to time to get in touch with folks who maybe they weren't
15 picking up the call because it was some number not in their
16 phone. Who knows? But the vast majority of the contacts are
17 using the burner through the day that these end on September
18 3rd.

19 I am putting up on the screen the summary of what
20 that is. This summary does not include the Facetime calls on
21 there. But we are talking about 600 minutes maybe in five
22 days -- six days after she has sworn under penalty of perjury
23 and under threat of contempt of this Court to follow the
24 Court's restrictions. Including not to contact folks.

25 So we can -- you know, we could go into every single

1 -- all the rows of these to explain it more. But if Your
2 Honor just want to stick with what the bail review issue was,
3 this is the context. This is why she did it. She did it in
4 order to acquire the phone.

5 Now what does that mean? So 3148, you got two
6 things. You got both the federal crime, contempt of court,
7 which she said in the release order that she understood, if
8 she violates the order you get -- she could be prosecuted for
9 contempt of court. She signed it. She understands that.

10 There is also potential witness tampering as well,
11 federal crime.

12 Second of all, just a violation of her release
13 order. There is obviously probable cause to find that she was
14 in contempt of Judge DiGirolamo's order, which creates the
15 rebuttable presumption in favor of detention. Otherwise,
16 there is clear and convincing evidence that she was in
17 violation of the release order.

18 There is zero percent chance that we can fashion
19 anything to contain this Defendant. In our argument to
20 Judge DiGirolamo we argued flight risk, sure. We also argued,
21 more strenuously that under 3142 she couldn't be released
22 because she was going to go obstruct, because she was going to
23 go talk to witnesses.

24 We pointed Judge DiGirolamo to a part in the
25 criminal complaint where she had done just that in relation to

1 one of her employee's SEC testimonies. She was writing down
2 notes in emails about what this guy should say in his
3 testimony.

4 So we relied on that in seeking detention before.
5 She walked out of the courtroom. She didn't even have to walk
6 out of the courthouse before she proved us right. She used
7 her lawyer's phone to break Judge DiGirolamo's order. She has
8 got to beset that.

9 THE COURT: So the Government -- your position is
10 that there are just absolutely -- I could -- that even if I
11 locked her down again and made her move to a different address
12 so I could get her on a bracelet and took away her ability to
13 use a cell phone, period -- I don't care about her business or
14 not -- took away her ability to use a cell phone, took away
15 her ability to access internet capable devices, have them all
16 monitored if she was using them at her expense, that all of
17 those, even additional conditions of release, are still not
18 sufficient in terms of the Government's belief that -- I guess
19 your argument at the end of the day is you are moving for
20 detention -- I guess, that she is a serious risk of
21 obstruction, which I can move for it. I mean, anybody -- the
22 Government can do that *sua sponte*.

23 MR. WINDOM: Yes.

24 THE COURT: So is that the argument?

25 MR. WINDOM: Yes, Your Honor. And it is

1 demonstratively true. There is no way that you can ensure
2 that a defendant does not get a phone. Especially where there
3 is a propensity to not just get -- you know, use her own
4 phone, but to go get a burner, go use two other people's
5 phones in this. She has visitors at the house. She borrows
6 their phone. She has visitors at the house -- she orders
7 groceries from Giant and put in a phone on the -- you know, at
8 home delivery option, if they have such things. Or CVS home
9 delivery or any of those places, all of which have disposable
10 phones. There is no way to monitor it. There is no way to
11 ensure that she is not going to keep on ---.

12 THE COURT: Okay. All right. Counsel?

13 MR. SCHAMEL: Giant does have home delivery, Your
14 Honor. If they didn't I wouldn't be near this fat. My wife
15 uses it all the time. It is quite good.

16 So on the issue of this, the 29th, I think there is
17 a couple of important things to point out. First and
18 foremost, she has been perfectly compliant with Pretrial and
19 they don't have any complaints with her since that day.

20 I am looking here, again -- this is another
21 document. I am not sure why this was a big secret, but it was
22 handed to me a second before it was handed to you, Your Honor.
23 And it looks like she left the courthouse, was on the phone
24 driving the wrong way. Did get lost, which is consisted with
25 what she told Pretrial. And she was on the phone with people

1 she is allowed to talk to, including her lawyer for 41 minutes
2 -- her prior sort of lawyer, not lawyer not any more, lawyer.
3 The lawyer who told her not to come to court, lawyer.

4 And it looks like she has missed voicemails from
5 Pretrial. She gets the call from Mr. Gremminger and -- a
6 little bit slow for my liking -- it is 13 minutes later she
7 calls Pretrial later at 5:06 as Pretrial recorded.

8 What this looks like to me, candidly, is somebody
9 who somebody makes sure they already turn off their phone when
10 they walk into court. I always get yelled at by my wife why I
11 don't answer the phone in the afternoon because I forgot to
12 turn it back on.

13 She is on the phone. She is making calls. She is
14 making calls -- I don't think she said the phone didn't work.
15 I think the issue was about whether or not it was ringing and
16 coming in to her. And then she has been compliant since on
17 the issue of Pretrial and what is before us.

18 On the issue of the chart that we just went through,
19 I told Your Honor, I mean, I have had this chart for just
20 about a minute or two more -- maybe eight minutes more than
21 you have had it. So I can't say. Like, I don't know who
22 Mr. Fuentes is or what he would say. I haven't talked to
23 Mr. Collins. I don't know.

24 I can tell Your Honor that I am not exactly sure I
25 agree with one of the representations Government Counsel made

1 about an email on the SEC. We can sort of agree to disagree
2 on what that emails says.

3 So I think, you know, perspective being the driver
4 on some of those things, how you look at them. But I think
5 the more important issue if Your Honor is going to entertain
6 the question as it relates to these -- what they call myriad
7 violations, is 130 calls -- there are conditions. There are
8 sets of conditions. And --

9 THE COURT: How do you reasonably -- and this is
10 rhetorical, but not really -- how do you reasonably assure
11 that a sophisticated criminal defendant -- and I believe that
12 Ms. Bennett is sophisticated -- and how do you reasonably
13 assure, given what the Government has proffered so far today,
14 that she has the capability and the financial ability to
15 thwart conditions of release and bend them -- and there is no
16 real ability, except for detention -- and by the way, as
17 everybody knows too, there are burners in cell blocks, too.
18 So let's be real about that.

19 You know, so when somebody is like Ms. Bennett who
20 is a sophisticated business person who -- you know, using
21 other people's phones and calling people that the judge -- the
22 court told her not to call, I mean, how do I fashion any kind
23 of conditions of release that will reasonably ensure that she
24 won't engage in such conduct that, you know, could subject her
25 to obstruction or witness tampering?

1 And I know you are going to say, I am not that kind
2 of lawyer. I am going to read her the riot act, blah, blah,
3 blah. But, you know, that is not really an answer for me. I
4 mean, what are the least restrictive conditions, other than
5 detention, that can correct this tract record in such a short
6 period of time where it is obvious to me and -- you know, and
7 I take back the fact -- I mean, I don't take it back because
8 she just went the wrong way on the beltway, but -- which I
9 don't understand because she probably came from Chevy Chase
10 there and then she decided to go home the long way. And, you
11 know, when I return to my house in Montgomery County I never
12 go back to Montgomery County by Branch Avenue.

13 But setting all that aside, it took her two hours to
14 go from this courthouse or from 295 at the BW Parkway -- two
15 hours roughly before she even spoke to Pretrial. And the
16 Government has made a pretty compelling case of what she has
17 been doing. She just doesn't want to follow what Pretrial
18 tells her.

19 Now she is in compliance, maybe. But what are the
20 conditions of release that, if I am going to change these
21 conditions -- which I can -- what are you suggesting other
22 than detention? Because this is a pretty bad case for
23 Ms. Bennett, in my mind.

24 MR. SCHAMEL: I think it is a fair assessment, Your
25 Honor. It is a fair read of it.

1 What I won't say -- and I am not standing up here,
2 Your Honor, to say like somehow I have magic; right? I am
3 some different lawyer and so it will be different because I say
4 it will be different. I don't even possess that sort of
5 hubris to even make that argument.

6 But what I think is -- and I am often struck when I
7 -- particularly career prosecutors, when they make discussions
8 about let's put people in cages, people need to go to jail,
9 and we need to send to them, whether it is CTF at D.C. or down
10 at Chuck County or someplace -- you know what that actual
11 means, you know? That is what we need to do to this woman.
12 That is where she needs to be until maybe June, or May, or
13 whenever they get around to their superseding indictment and
14 we get a trial date.

15 It troubles me. It troubles me having been in 50,
16 60 jails, prisons, you know, county lockups, super-max, to
17 camps. It is -- that is a pretty onerous ask. And it is an
18 onerous ask because not only does it impact her mental health
19 and what she can do to help assist in her own defense, but how
20 difficult it makes it to even put on a case.

21 And, Your Honor -- I don't have to tell you, you
22 have probably represented more detained defendants than I have
23 in your career. And it is a pretty significant ask.

24 That is why when they drafted the statute they say
25 let's find what is better. What can we do that is more

1 reasonable? And I think, frankly, at this point, she probably
2 has lost her right to telephone privileges, at least for the
3 foreseeable future. I think that is completely reasonable.

4 She was living in New Mexico. The reason she has
5 been living here and now is because of this case. I don't
6 know if the Court wants to put her on monitoring in New
7 Mexico. I am guessing there is a lot of -- never been there.
8 So I am guessing there is a lot of wide open spaces and they
9 don't have any cell --

10 THE COURT: I looked at that too, by the way. I
11 mean, I really wish I had like 176 acres and a 13-bedroom
12 house and 11-bathroom house in New Mexico that I could live
13 in. I mean, I really wish that which -- I wish I had that.

14 MR. SCHAMEL: I would take a little one of those
15 adobes out in New Mexico, Judge.

16 THE COURT: But -- and I don't know why she can't --
17 Ms. Bennett, please have a seat.

18 You know, and I don't understand all -- and I say
19 that not because I want to live the life of the rich and
20 famous. I say it because I think it is a part of her scam not
21 to lawyer up. She has got all of these properties. She lives
22 in a penthouse. She has got this house in New Mexico that --
23 what I saw -- went on the market for nine million dollars at
24 some point and she bought it, apparently.

25 So, you know, she is very sophisticated. That is

1 what I meant about sophisticated.

2 MR. SCHAMEL: I am not saying she is not. I don't
3 disagree --

4 THE COURT: And she's a trickster.

5 MR. SCHAMEL: I don't think that is fair, Judge. I
6 mean, and here is --

7 THE COURT: All right. Well, I am the judge. Go
8 ahead.

9 MR. SCHAMEL: You are. But I am the lawyer. I am
10 allowed to say that I don't necessarily agree with you.

11 THE COURT: On your limited conditional
12 representation of a client that you really have -- don't even
13 really know yet.

14 MR. SCHAMEL: Lawyer for the day, but 20 years of
15 practice in criminal defense --

16 THE COURT: Go ahead.

17 MR. SCHAMEL: -- around this jurisdiction and across
18 the country.

19 THE COURT: Tell me, sir, what this -- let's not --
20 I mean, as much as I enjoy this banter with you, tell me what
21 you recommend for Ms. Bennett short of me sending her out that
22 door right now because she is a -- she cannot help herself
23 from committing obstruction of justice and she has violated
24 the release conditions in this case?

25 MR. SCHAMEL: She does not have a phone.

1 THE COURT: So tell me what I should do.

2 MR. SCHAMEL: She does not have a phone. It has
3 been taken the federal agents this -- earlier today. She
4 should not be allowed to get --

5 THE COURT: How doesn't she -- how do we that she
6 doesn't stop at the CVS or the Giant and get a new burner, or
7 have Mr. Fuentes get a new burner, or use somebody else's
8 phone to make calls to people that she can't have contact
9 with? How will we ever -- not me. Because I don't care. How
10 will the Government be able to -- or Pretrial be able to -- it
11 is really Pretrial. How will Pretrial be able to supervise
12 that to make sure that she is compliance with the release
13 conditions?

14 MR. SCHAMEL: Didn't they just show us that they
15 can? I mean, isn't the proof right there in the pudding?
16 They say she gets a burner phone and they can't supervise her
17 -- they have got the phone -- and I hate that term, too. She
18 issues of pre-paid tracfone and they say she made all these
19 phone calls to all these people on a prepaid tracfone. So I
20 think there is your answer, Your Honor. It is very -- it
21 seems to be -- I don't know. I am not the Government. But it
22 seems to be pretty easy to do.

23 So if she has a very clear, specific order from Your
24 Honor that she is not to purchase any new phones, enter into
25 any phone contracts, borrow anybody's phones, have any phone

1 use, put her back on GPS monitoring. I mean, I think that is
2 pretty easy. If it is as Mr. Windom would like us to believe
3 that is inescapable that she is going to do it, well, my guess
4 is she would do it tomorrow and we will be back on Monday;
5 right?

6 They have these 35 people. They are clearly all
7 being talked to by the federal agents. So my guess is none of
8 them -- even the ones who want to speak to her -- are going to
9 lie to federal agents or want to get themselves caught up in
10 some sort of aiding and abetting. She probably already has,
11 given what Government Counsel has told us, pulled some new
12 charges for a superseding indictment on obstruction. They
13 will try to make those charges against her.

14 But to put her in jail until there is a trial date
15 for a superseding indictment is excessive. It is excessive on
16 the circumstances of this case. It is excessive on this
17 indictment. It is excessive on these allegations.

18 She is sophisticated. I am not saying she is not.
19 But I don't think that there is -- the same of having this
20 real estate as the same of liquidity; right? The fact that
21 she is trying to hire lawyers and trying to find a lawyer, and
22 she is probably doing it in short order. And, frankly, may
23 have me as early as early next week.

24 I think the other thing that the Government is
25 missing -- and I think Your Honor probably knows this as well

1 as I do as well -- she is now sitting here scared to death for
2 the first time in this case. She has a lawyer, unlike lawyers
3 who say don't bother coming to court, this isn't a big deal,
4 this is just the SEC run a mock, there is nothing to this
5 case, this is stupid, and the things that she had been hearing
6 before Monday.

7 Now she is hearing I make -- she has heard a federal
8 magistrate judge say, What is to stop me from taking her
9 through that door and putting in a cage for the next six
10 months? That has a pretty significant impact on every human
11 being in the world. So we are in a different place. It is a
12 new paradigm. Your Honor has this case. It is going to stay
13 with Your Honor, I am quite certain. I am going to stay, and
14 if I can, I am going everything I can to make that happen.
15 And I think Ms. Bennett could not be more crystal clear what
16 the repercussions are.

17 My guess is, and if Your Honor hasn't said it
18 already or will say, Ms. Bennett, there will not be a third
19 strike. Ms. Bennett, if there is a single -- not 130, not
20 114, not 98 -- if there is a single violation of my order,
21 which is going to be as clear and as concise as can possibly
22 be, there won't be need for a hearing. You are going to be
23 held pending trial.

24 I think that is the ramification, Your Honor. I
25 think that is the resolution. I think that, frankly, is what

1 is in the interest of justice.

2 THE COURT: Mr. Windom, anything else?

3 MR. WINDOM: Just briefly, Your Honor.

4 I mean, she is asking for a mulligan which you don't
5 get on the pro tour and you don't get in Federal Court. She
6 has been in -- you are the third magistrate judge who the
7 Defense would have you just tell her the exact thing that two
8 other magistrate judges have already told her.

9 In New Mexico she was told by that magistrate judge.
10 And not just told, but as with all defendants, she signed.
11 She signed the New Mexico release order saying I recognize I
12 can't do these things. So then three days later she says, oh,
13 here --

14 THE COURT: Do you have the -- can I see a -- do you
15 have a complete copy of that New Mexico --

16 MR. WINDOM: Yes, sir. I will hand it up right now.
17 And I will hand it up with Judge DiGirolamo's order which I am
18 about to put on the screen.

19 THE COURT: Yes, I have his. But --

20 MR. WINDOM: Okay, great. So --

21 THE COURT: Counsel, do you have the complete --

22 MR. SCHAMEL: I don't have the New Mexico, Your
23 Honor.

24 THE COURT: Okay.

25 MR. WINDOM: Judge DiGirolamo said the exact same

1 thing --

2 THE COURT: Do you have the New Mexico --

3 MR. GREMMINGER: I have it, yes.

4 MR. SCHAMEL: Oh, ---

5 THE COURT: Yes. Your local counsel has it.

6 MR. GREMMINGER: It will take me a moment to get it,

7 Your Honor.

8 THE COURT: Yes, sure. Go ahead.

9 MR. SCHAMEL: Local like here?

10 MR. WINDOM: So the jest of it is this, she lied to
11 two separate magistrate judges, she lied to Mr. Ridgeway's
12 face a few hours after she left this courthouse. And she
13 presumably lied to her own local counsel when she said, Hey,
14 can I borrow your phone, downstairs in this courthouse an hour
15 and 42 minutes after walking out of court with Judge D.

16 THE COURT: Okay. All right. Anybody else wish to
17 say anything?

18 All right. So this is a bail review hearing. There
19 is really two issues here. One is the representations issue,
20 which we will put on the side of a second. But here is the
21 reality -- and, Ms. Bennett, I have been sparring with your
22 lawyer and -- your conditional limited lawyer and your local
23 counsel lawyer kind of facetiously, but don't overlook the
24 importance of getting a lawyer in a case like this.

25 I am going to treat you the exact same way that I

1 treat every single criminal defendant who goes off on -- goes
2 out on release conditions and who violates those release
3 conditions. I have no doubt, and I believe the evidence is
4 sufficient for me to conclude, that you have engaged in
5 conduct that, although may be subject to contempt of court --
6 the Government can charge you with that if they want and/or
7 obstruction or witness tampering. But what is clear to me,
8 and I don't even have to reach -- I don't even really --
9 concluding what I am going to do, I don't even really reach
10 any of the no-contact calls and the use of the phones.

11 Yes, it is really disturbing that you are using your
12 lawyer's phone and making him a co-conspirator to your
13 violation of a federal judge's order. But I don't really even
14 need to go there. I am only going to restrict myself to the
15 note of apparent violation for your conduct with Mr. Ridgeway
16 and it is inexcusable. And you knew exactly what you were
17 doing. The data reflects it. And you were talking to
18 everybody under the sun, except for Mr. Ridgeway.

19 And you can shake your head all you want. It is not
20 going to make a difference to me.

21 And that he told you to go directly home and you
22 didn't go directly home. And there are consequences for your
23 conduct. And you are now charged as a criminal defendant and
24 your station in life is irrelevant. And it would be totally,
25 totally, totally, totally inappropriate and wrong for me to

1 give you a pass on this when I don't give anybody a pass and
2 there is a whole litany of people who know that my philosophy
3 is I will put you out on release, you violate it, you go in.

4 I don't think that you need to stay in custody for
5 the entire duration of the case. I don't think that you need
6 to stay detained until May, or June, or July, whenever this
7 case comes around. But I do think you think a wakeup call.
8 And I think you need to be told, and I am about to tell you,
9 that your life is not our own anymore.

10 You are now a criminal defendant in a federal court
11 case in this district. You can live on a ranch. You can live
12 in a penthouse. It doesn't matter. You are going to be
13 treated the same way that an 18-year-old or a 25-year-old
14 young man who was born and raised in Prince George's County
15 and gets charged here gets treated.

16 You are going to be detained and remanded to the
17 custody of the Marshal. It is not going to be forever.
18 Limited counsel or local counsel can file a motion for
19 reconsideration. I am going to put you in for a couple days.
20 And then I am going to let you back out. And then we are
21 going to talk about a brand new clean slate of release
22 conditions. And there are consequences for noncompliance. It
23 is not the end of the world. You are not -- and I will tell
24 you right now, I don't care what the Government says, they can
25 come -- unless you use a burner phone in the jail, I am not

1 going to keep you in custody.

2 I recognize your criminal -- lack of criminal
3 history. I recognize all of the factors that weigh in your
4 advantage for release conditions. And I believe there is a
5 possibility of conditions of release, onerous, suspect to
6 whether or not you are going to comply with them or try to
7 bend them and do your own thing and think that what I say
8 doesn't matter. But I am not Judge DiGirolamo. And I am not
9 some judge -- one of my colleagues in New Mexico.

10 You bare responsibility for your conduct, which is
11 violating Judge DiGirolamo's order. You are going to pay the
12 consequences for that and I do find right now, just on the
13 obstruction alone -- setting that aside -- forget it. Under
14 3148 I find that you have violated the release conditions set
15 by Judge DiGirolamo. And at this point in time, I find that
16 there are grounds to believe that you are highly, highly
17 unlikely to abide by any of the conditions, particularly the
18 no-contact order. And you are going to be detained and
19 remanded to the custody of the Marshal.

20 And, you know, we can talk with Counsel about
21 setting this in sometime rather quickly. But you need to go
22 in and you need to think about following release conditions.
23 And I put people in for smoking weed. You know, that --
24 marijuana is a federal crime. You test dirty, good bye. And
25 I don't see the reasons why I should treat you any different

1 than anyone else.

2 I understand that your lawyer is saying and he is
3 great. He has done a great job for you. But there are
4 consequences for your conduct and right now you are detained
5 and remanded to the custody of the Marshal. And at the
6 appropriate time, somebody can file a motion and ask me to
7 reconsider. We will file -- we will set this in for a hearing
8 and we will move forward then and set a new set of conditions
9 of release that you may well think you could just stay in jail
10 because they are going to be -- you are a hard case to figure
11 out because you are very smart, the allegations against you
12 are very serious, and you are clever. And I just see it from
13 the record here. And it is going to be a challenge for me to
14 fashion release conditions that are appropriate for you, but I
15 am willing to do that and am willing to give it a try. But I
16 think right now detention is appropriate.

17 Ma'am, you are remanded into the custody of the
18 Marshal.

19 Any other medical issues that your client has while
20 she is in custody?

21 MR. SCHAMEL: That is exactly what I was going to
22 ask, Your Honor. I haven't had a --

23 THE COURT: On the -- yes, just on the corner of the
24 table there so we don't say it out loud -- but on the defense
25 table there is a communication of health claims form. So just

1 have a seat with your -- just fill it out with her so we don't
2 have to say it in court in front of everybody and I will look
3 at it.

4 MR. SCHAMEL: Right now while we are at the counsel
5 table?

6 THE COURT: Yes.

7 MR. SCHAMEL: Okay.

8 THE COURT: See, there is a form there, right, that
9 says Communication of Health Needs?

10 MR. SCHAMEL: Oh, I didn't see that. Okay.

11 THE COURT: Yes. So just fill that out with
12 Ms. Bennett and then pass it up to me.

13 MR. SCHAMEL: Your Honor, may we -- could -- I would
14 ask while we are filling that out because I do think there is
15 a couple issues that he is going to put down -- Mr. Gremminger
16 is going to put down. Can we stay this until tomorrow that
17 she can -- wherever she is going to be remanded so that she
18 can -- if there is medications and things that need to be
19 done?

20 THE COURT: No. Let's see what the health -- I have
21 got people with bypass, I have got people with -- I got
22 another set of lawyers here that are waiting that -- I have
23 people who are in custody all the time with kidney disease,
24 all kinds of heart disease, diabetes, cancer. So no, I am not
25 staying it. She is going in tonight. But just let me see

1 what is on the form.

2 And while you are filling that out, Counsel, I am
3 going to grant Ms. Gremminger's motion to withdraw. I mean,
4 sir, so your motion ECF number 20 where you have asked to be
5 relieved from any other responsibility in this matter is
6 granted.

7 MR. GREMMINGER: Thank you, Your Honor.

8 THE COURT: And you are no longer required to attend
9 any hearings and/or any proceedings in this unless you want to
10 reenter your appearance. But I have granted the motion and
11 you are discharged from any other further responsibility.

12 MR. GREMMINGER: Thank you, Your Honor.

13 THE COURT: Mr. Schamel, --

14 MR. SCHAMEL: Yes, Your Honor.

15 THE COURT: -- if you can multitask, I need an
16 answer from you sooner than later about whether you are going
17 to be retained by Ms. Bennett to represent her. And I will --
18 if you want to continue that discussion with her, I will ask
19 the Marshals to make sure she is available to him after these
20 proceedings so you can talk about what you need to talk about.

21 I don't want her -- she needs to be represented by
22 an attorney. If she can't work out rule one with you, I need
23 to get her back quickly for an attorney inquiry hearing and
24 consider the appointment of counsel for her under a
25 contribution order because she needs to be represented, and I

1 don't want her to be unrepresented for any period of time.

2 But Mr. Gremminger, he doesn't need to stay. This
3 is like he wakes up in cold sweats at night thinking about
4 what he got himself into. So I am keeping you in as your --
5 you are now -- your limited conditional representation is
6 going to carry on moving forward until such time as you advise
7 me that it is not going to work out. And then I will figure
8 out what we are going to do about an attorney.

9 Or if you are going to enter -- and you work out the
10 financial component of it, just enter just the normal notice
11 of appearance on the system and we will take it from there.
12 But I would like for you -- I don't know if the timetable is
13 too tight, but I would like to know by like close of business
14 tomorrow whether you are in or out. I don't know if that is
15 too close -- too tight for you guys or --

16 MR. SCHAMEL: May I approach on that issue, Your
17 Honor? Do you mind?

18 THE COURT: Sure, if you want. Yes.

19 MR. SCHAMEL: Thank you.

20 THE COURT: Do you want the Government to come up or
21 no?

22 MR. SCHAMEL: No, I would like to just do *ex parte*
23 on that issue.

24 THE COURT: Okay, yes. Sure. All right.

25 (Whereupon, a Bench Conference followed.)

1 MR. SCHAMEL: --- I am concerned about this. Some
2 of the investors hired a lawyer to try to find her a lawyer.
3 They are trying to put together -- the investors are trying to
4 hire somebody to represent ---. And so I don't know if ---.

5 THE COURT: All right. When do you want -- when do
6 you want me --

7 MR. SCHAMEL: Well, I don't know how good --- doing
8 that --- at this point. So I don't know that I will see you
9 for Monday. And now with her being detained it is going to
10 certainly impact that.

11 THE COURT: But she is not detained forever, but --

12 MR. SCHAMEL: No, I understand.

13 THE COURT: -- right now --

14 MR. SCHAMEL: I hear what you saying. But I -- and
15 I certainly wouldn't leave her high and dry.

16 THE COURT: Right.

17 MR. SCHAMEL: If I am not going to --- I will stay
18 until I file a motion to reconsider.

19 THE COURT: Okay. All right.

20 MR. SCHAMEL: I will do all that. There is a
21 meeting that I --- tomorrow and it is for a hearing Monday.
22 And then we are moving this week and I just don't know when I
23 am going to get to the jail to see her.

24 THE COURT: Yes. No, I understand that. So, yes, I
25 think we are on the same -- I am going to give you enough time

1 to figure out whether you can stay to represent her or to stay
2 on the case or not. So it doesn't have to be by Friday. But
3 let me know sometime next week what the status is.

4 MR. SCHAMEL: I will. And I am going to try to talk
5 to Government Counsel and see if they have --- subpoena all
6 the lawyers --- --

7 THE COURT: Right.

8 MR. SCHAMEL: -- frequently hear of lawyers so want
9 three million dollars these days.

10 THE COURT: Right. Right.

11 MR. SCHAMEL: --- a million dollars to do the SEC
12 stuff. And then --- come forward. So I got to --- my
13 position and stuff. --- talk to them. I will figure out
14 tomorrow.

15 THE COURT: Okay. That is fine.

16 MR. SCHAMEL: But then I will -- you have my word
17 that I still stay in until we get something figured out.

18 THE COURT: Okay. All right.

19 MR. SCHAMEL: Thank you, Your Honor.

20 THE COURT: You are welcome.

21 (Whereupon, the Bench Conference was concluded.)

22 THE COURT: All right, so based on the *ex parte*
23 conversation at the bench, I am not going to set a deadline --
24 a firm hard deadline for Counsel to advise whether he is going
25 to enter a full appearance.

1 And, Counsel, just let me know when you know.
2 Hopefully next week. And you will -- he -- you will stay in
3 the case representing the interests of Ms. Bennett up until
4 such time either, you are no longer in the case or you are in
5 fully. Okay?

6 MR. SCHAMEL: Yes, Your Honor. That is totally
7 appropriate.

8 THE COURT: All right.
9 Government, anything else?

10 MR. WINDOM: No, Your Honor.

11 THE COURT: All right.

12 MR. SCHAMEL: And then may I -- you said -- may I
13 speak with her before she is taken back? Is there a place
14 that I can talk to the Marshals?

15 THE COURT: Yes. The Marshall will -- they will
16 take her back downstairs and then you can talk to her
17 downstairs.

18 Do you have the health need form that I can look at?

19 MR. SCHAMEL: Yes. I am going to bring that up now,
20 Your Honor.

21 THE COURT: Great.

22 MR. WINDOM: Your Honor, may we see you separately
23 and may we take a break for a few minutes?

24 THE COURT: Sure.

25 MR. WINDOM: Thank you.

nm

1 THE COURT: Let me just do the health needs form
2 first and then --

3 MR. WINDOM: Yes.

4 MR. SCHAMEL: May I approach?

5 THE COURT: Yes. You can just pass it to me.

6 (Pause.)

7 THE COURT: All right. Let's move it on.

8 All right, we will take a five minute recess. And I
9 apologize to everybody else who is waiting.

10 All right, you guys, come on back.

11 THE CLERK: All rise. This Honorable Court stands
12 in recess.

13 (Whereupon, at 3:46 p.m., the proceeding concludes.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the duplicated electronic sound recording of the
proceedings in the above-entitled matter.

<u>Noemy Martinez</u>	<u>10/18/2017</u>
Noemy Martinez	Date
Transcriber	